

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES,)	
Plaintiff)	
)	
v.)	
)	Civil Action No. 1:15-CV-13367-ADB
MONICA TOTH,)	
Defendant)	

**DEFENDANT MONICA TOTH’S OPPOSITION TO PLAINTIFF’S MOTION
TO ALTER OR AMEND THE COURT’S JUDGMENT**

Defendant, Monica Toth hereby opposes Plaintiff’s Motion to Alter or Amend the Court’s Judgment (ECF 177). Plaintiff has requested the Court enter an amended judgment in the amount of \$3,138,097.48, reflecting the FBAR penalty, late payment penalties, pre-judgment interest, plus additional accrued interest and penalties. The amount requested, however, does not take into account a necessary credit for payments that were unlawfully garnished from Plaintiff’s social security benefits. Over a period of several months, the Treasury Department reduced Ms. Toth’s social security benefits and credited those amounts toward the FBAR debt. (See ECF 20-2 at 2). These social security garnishments were the subject of Ms. Toth’s Counterclaim and Motion for Declaratory Judgment. (See ECF 21, ECF 20-2, ECF 21). As the Court noted in its decision on Plaintiff’s Motion to Dismiss Ms. Toth’s Counterclaim and Request for Declaratory Judgment (ECF 43), the amount of Ms. Toth’s liability, “will be resolved during the adjudication

of the underlying complaint.” (ECF 43). Yet, Plaintiff has failed to credit these payments towards Ms. Toth’s liability.¹

In addition to the government’s failure to credit Ms. Toth for these garnishments, it is unclear whether the six percent penalty applied to the penalty was applied in accordance with the time frame required by 31 U.S.C. § 3717(e).

Defendant requests that this Court require the government to provide the necessary documents so that an accurate judgment *amount* may be ascertained, at which point the defendant may be in a position to assent to a corrected judgment amount, while reserving all appellate rights concerning the appropriateness of the judgment itself.

Respectfully Submitted,
MONICA TOTH
By Her Attorneys
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¹ In order to address this issue, after Plaintiff filed its motion to amend the judgment, counsel for Defendant requested and the government agreed to provide an accounting of the relevant payments to enable a recalculation of the interest and penalties. As of the filing of this response, no such information has been provided.